

On September 23, 1940, the United States attorney for the Southern District of Ohio filed a libel against 174 cans of pitted sour cherries at Dayton, Ohio, alleging that the article had been shipped in interstate commerce on or about February 27 and April 5, 1939, by H. C. Hemingway & Co. from Lockport, N. Y.; and charging that it was misbranded. The article had been shipped by the Lockport Canning Co. in the name of H. C. Hemingway & Co. When so shipped it was labeled in part: "Below U. S. Standard Good Food—Not High Grade Partially Pitted." When examined by this Agency, this label had been removed and new labels had been affixed to the cans reading in part: "True Value Pitted Red Sour Cherries * * * Packed for Lush's Brand Distributors, Inc."

The article was alleged to be misbranded in that its quality fell below the standard prescribed by regulations provided by law, and its package or label did not bear a plain and conspicuous statement as prescribed by such regulations indicating that it fell below such standard.

On October 31, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

1460. Misbranding of canned cherries. U. S. v. 100 Cases of Canned Cherries. Default decree of condemnation and destruction. (F. D. C. No. 3481. Sample No. 55589-E.)

This product was substandard because of the presence of excessive pits and was not labeled to indicate that fact.

On December 9, 1940, the United States attorney for the District of Idaho filed a libel against 100 cases of canned cherries at Boise, Idaho, alleging that the article had been shipped in interstate commerce on or about November 1, 1940, in a pool-car shipment from Portland, Oreg., for the Stayton Canning Co. of Stayton, Oreg.; and charging that it was misbranded. It was labeled in part: (Cans) "Santiam Brand Water Pack Red Sour Pitted Cherries."

The article was alleged to be misbranded in that it purported to be a food for which a standard of quality had been prescribed by regulations as provided by law, but its quality fell below such standard and its label failed to bear, in such manner and form as the regulations specify, a statement that it fell below such standard.

On January 22, 1941, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

1461. Adulteration of canned huckleberries. U. S. v. 247 Cartons of Canned Huckleberries. Default decree of condemnation and destruction. (F. D. C. No. 3475. Sample No. 22112-E.)

This product contained worms.

On December 4, 1940, the United States attorney for the Northern District of California filed a libel against 247 cases of canned huckleberries at San Francisco, Calif., alleging that the article had been shipped in interstate commerce on or about November 5, 1940, by Younglove & Co., Tacoma, Wash.; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance. The article was labeled in part: (Cans) "Mountain Home Brand Pastry Pack Huckleberries."

On January 28, 1941, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

1462. Adulteration of canned crushed pineapple. U. S. v. 32 Cans of Crushed Pineapple. Default decree of condemnation and destruction. (F. D. C. No. 2347. Sample No. 3750-E.)

This product contained insects and insect fragments.

On July 19, 1940, the United States attorney for the Western District of New York filed a libel against 32 cans of pineapple at Buffalo, N. Y., alleging that the article had been shipped on September 13, 1939, by Libby, McNeill & Libby from Honolulu, Hawaii; and charging that it was adulterated in that it consisted in whole or in part of a filthy substance.

On September 13, 1940, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

1463. Adulteration of canned peas. U. S. v. 75 Cases of Canned Peas. Default decree of condemnation and destruction. (F. D. C. No. 2184. Sample No. 28304-E.)

This product was in whole or in part decomposed.

On or about June 10, 1940, the United States attorney for the Western District of Virginia filed a libel against 75 cases of canned peas at Harrisonburg,

Va., alleging that the article had been transported in interstate commerce on or about March 15, 1940, by the Harrisonburg Grocery Co., Inc., from Baltimore, Md., to the place of business of the shipper in Harrisonburg, Va.; and charging that it was adulterated in that it consisted wholly or in part of a decomposed substance. The article was labeled in part: (Cans) "Temptu Early Variety Peas Distributed by King Foods Co. Baltimore, Md."

On July 17, 1940, no claim having been entered, judgment of condemnation was entered and the product was ordered destroyed.

1464. Adulteration and misbranding of canned peas. U. S. v. Uco Food Corporation. Plea of guilty. Fine, \$400. (F. D. C. No. 2102. Sample Nos. 68760-D, 68762-D, 68763-D, 68764-D.)

This product consisted of mature peas and not early June peas as labeled.

On September 21, 1940, the United States attorney for the District of New Jersey filed an information against the Uco Food Corporation, Newark, N. J., alleging shipment within the period from on or about August 4 to on or about November 10, 1939, from the State of New Jersey into the State of New York of quantities of canned peas that were adulterated and misbranded. The article was labeled in part: "Lawn Dale Brand * * * Early June Peas * * * Distributed by Westside Wholesale Grocery Company Chicago"; or "Pultney Brand Early June Peas packed by K. M. Davies Company Williamson, N. Y."

It was alleged to be adulterated in that mature dried peas had been substituted in whole or in part for early June peas, i. e., immature succulent peas, which it purported to be.

It was alleged to be misbranded in that the statements "Early June Peas," together with a design of peas in pods with respect to both brands, and the statement "Distributed by the West Side Wholesale Grocery Co., Chicago Ill.," with respect to the Lawn Dale brand, and the statement "Packed by K. M. Davies Co., Inc., at Williamson, N. Y.," with respect to the Pultney brand, borne on the labels, were false and misleading in that they represented that the article consisted of immature succulent peas and that it was distributed or packed by the firms named on their respective labels; whereas it did not consist of immature succulent peas but did consist in whole or in part of mature, dried peas and had not been distributed or packed by said firms.

On October 22, 1940, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$400.

1465. Misbranding of canned peas. U. S. v. 38 Cases of Unlabeled Canned Peas and 1 Case of Labeled Canned Peas. Default decree of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 1181. Sample No. 68771-D.)

This product was canned soaked dry peas. A portion was labeled to indicate that it was canned immature peas and a portion was unlabeled.

On December 12, 1939, the United States attorney for the District of New Jersey filed a libel against 39 cases of canned peas at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about October 27, 1939, by the York Star Canning Co., Inc., from New York, N. Y.; and charging that it was misbranded. One case was labeled in part: (Design of peas in pod) "Lincoln Highway Brand Peas * * * Packed by Geo. E. Stocking Canning Factory Rochelle, Ill."

The labeled portion of the product was alleged to be misbranded in that the statement "Peas" and the design of peas in a pod were false and misleading as applied to canned soaked dry peas. The labeled portion was alleged to be misbranded further in that the statement "Packed by Geo. E. Stocking Canning Factory Rochelle, Ill." was false and misleading since the article was packed by the York Star Canning Co. Inc., New York.

The unlabeled portion was alleged to be misbranded in that it was in package form and did not bear an accurate statement of the quantity of the contents.

On February 21, 1941, judgment was entered nunc pro tunc as of June 11, 1940, condemning the product and ordering that it be delivered to a charitable institution.

1466. Adulteration of canned pumpkin. U. S. v. 63 Cases and 194 Cases of Canned Pumpkin. Default decrees of condemnation and destruction. (F. D. C. Nos. 3479, 3480. Sample Nos. 39254-E, 39841-E.)

This product contained a glasslike mineral substance.

On December 5, 1940, the United States attorney for the Eastern District of Missouri filed libels against 63 cases and 194 cases of canned pumpkin at